

§ 8.10

§ 8.10 Predetermined penalties.

An exchange may adopt rules which set specific maximum penalties for particular violations. If the rules of an exchange establish predetermined penalties, the disciplinary committee shall have discretion in each case whether to employ the predetermined penalty. If the predetermined penalty is employed, it shall be stated in the notice of charges. In such case, after a hearing on a denied charge where a respondent is found to have committed the violation charged, the disciplinary committee shall impose the predetermined penalty or an appropriate lesser penalty.

§ 8.11 Notice of charges.

The notice of charges shall:

- (a) State the acts, practices, or conduct in which the person is alleged to have engaged;
- (b) State the rule alleged to have been violated (or about to be violated);
- (c) State the predetermined penalty, if any;
- (d) Prescribe the period within which a hearing on the charges may be requested;
- (e) Advise the person charged that:
 - (1) He is entitled, upon request, to a hearing on the charges;
 - (2) If the rules of the exchange so provide, failure to request a hearing within the period prescribed in the notice, except for good cause, shall be deemed a waiver of the right to a hearing; and
 - (3) If the rules of the exchange so provide, failure in an answer to deny expressly a charge shall be deemed to be an admission of such charge.

(Approved by the Office of Management and Budget under control number 3038-0022)

[43 FR 41950, Sept. 19, 1978, as amended at 46 FR 63036, Dec. 30, 1981]

§ 8.12 Right to representation.

Upon being served with a notice of charges the respondent shall have the right to be represented by legal counsel or any other representative of his choosing in all succeeding stages of the disciplinary proceeding.

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§ 8.13 Answer to charges.

The respondent shall be given a reasonable period of time to file an answer to the charges. The rules of an exchange may provide that:

(a) The answer must be in writing and include a statement that the respondent admits, denies or does not have and is unable to obtain sufficient information to admit or deny each allegation. A statement of a lack of sufficient information shall have the effect of a denial of an allegation.

(b) Failure to file an answer on a timely basis shall be deemed an admission of all allegations contained in the notice of charges.

(c) Failure in an answer to deny expressly a charge shall be deemed to be an admission of such charge.

§ 8.14 Admission or failure to deny charges.

(a) The rules of an exchange may provide that if the respondent admits or fails to deny any of the charges the disciplinary committee may find that the rule violation alleged in the notice of charges for which the respondent admitted or failed to deny any of the charges has been committed. If the exchange rules so provide, then:

(1) The disciplinary committee shall impose a penalty no greater than the predetermined penalty, if any, stated in the notice of charges for the corresponding violation found to have been committed.

(2) If no predetermined penalty was stated, the disciplinary committee shall impose a penalty for each violation found to have been committed.

(b) The disciplinary committee shall promptly notify the respondent in writing of any penalty to be imposed pursuant to paragraph (a) of this section and shall advise him that he may request a hearing on such penalty within a reasonable period of time, which shall be stated in the notice, but that except for good cause shown no hearing shall be permitted on a penalty imposed pursuant to subparagraph (a)(1) of this section.

(c) The rules of an exchange may provide that if a respondent fails to request a hearing within the period of